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Salzman, and Fred Thiel, and Nominal Defendant
Marathon Digital Holdings, Inc.

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

KIMBERLY BERNARD, Derivatively on Behalf
of MARATHON DIGITAL HOLDINGS, INC.
(f/k/a MARATHON PATENT GROUP, INC.),

Plaintiff,

v.

FRED THIEL, GEORGES ANTOUN, KEVIN
DENUCCIO, SARITA JAMES, JAY LEUPP,
SAID OUISSAL, MERRICK D. OKAMOTO, and
SIMEON SALZMAN,

Defendants,

-and-

MARATHON DIGITAL HOLDINGS, INC. (f/k/a
MARATHON PATENT GROUP, INC.),

Nominal Defendant.

Case No.: 2:22-cv-00305-RFB-NJK

**JOINT STIPULATION AND
[PROPOSED] ORDER
CONCERNING DISCOVERY PLAN**

(First Request)

ROY STRASSMAN, Derivatively on Behalf of
MARATHON DIGITAL HOLDINGS, INC. (f/k/a
MARATHON PATENT GROUP, INC.),

Case No.: 2:22-cv-00724-RFB-NJK

Plaintiff,

v.

FRED THIEL, GEORGES ANTOUN, KEVIN
DENUCCIO, SARITA JAMES, JAY LEUPP,
SAID OUISSAL, MERRICK D. OKAMOTO, and
SIMEON SALZMAN,

Defendants,

-and-

MARATHON DIGITAL HOLDINGS, INC. (f/k/a
MARATHON PATENT GROUP, INC.),

Nominal Defendant.

WHEREAS on May 25, 2022, the Court entered an order consolidating the *Bernard* and *Strassman* Actions captioned above, both of which are stockholder derivative actions alleged to have been brought on behalf of Nominal Defendant Marathon Digital Holdings, Inc. (“Marathon”), after determining “that these actions are related and that there is good cause to reassign them to one District Judge,” and stating that “all future pleadings must bear case number 2:22-cv-00305-RFB-NJK” (*Bernard* ECF No. 41; *Strassman* ECF No. 29);

WHEREAS the *Bernard* and *Strassman* Actions are also related to an earlier-filed federal securities law action, *Schlatre v. Marathon Digital Holdings, Inc.*, Action No. 2:21-cv-02209-RFB-NJK, and the *Bernard* and *Strassman* Actions thus were assigned to the same judge and magistrate judge hearing the *Schlatre* Action (*Bernard* ECF No. 19; *Strassman* ECF No. 29);

WHEREAS the *Schlatre* Action is governed by the Private Securities Litigation Reform Act of 1995 (the “PSLRA”);

WHEREAS the PSLRA provides for the Court to appoint a lead plaintiff and lead counsel for plaintiffs (15 U.S.C. § 78u-4(a)(3)(B));

WHEREAS on February 15, 2022, five motions for appointment of lead plaintiff and lead counsel were filed in the *Schlatre* Action (*Schlatre* ECF Nos. 10, 11, 12, 13, 14);

WHEREAS the PSLRA provides that all discovery and other proceedings are

1 stayed while any motion to dismiss is pending (15 U.S.C. § 78u-4(b)(3)(B));

2 WHEREAS on March 10, 2022, the Court in the *Schlatre* Action entered an order
3 staying defendants' time to answer, move or otherwise respond to the complaint pending the
4 Court's decisions on the motions for appointment of a lead plaintiff and lead counsel in the *Schlatre*
5 Action and then the setting of a schedule for a consolidated or amended complaint and motions to
6 dismiss in the *Schlatre* Action (*Schlatre* ECF No. 25),

7 WHEREAS the motions for appointment of lead plaintiff and lead counsel in the
8 *Schlatre* Action have not yet been decided;

9 WHEREAS on April 4, 2022 and May 11, 2022, Nominal Defendant Marathon and
10 all Defendants in the *Bernard* and *Strassman* Actions filed motions to dismiss the *Bernard* and
11 *Strassman* Actions (*Bernard* ECF No. 11; *Strassman* ECF No. 11);

12 WHEREAS on May 18, 2022, Plaintiffs' counsel in the *Bernard* and *Strassman*
13 Actions informed counsel for Marathon and Defendants that Plaintiffs in the *Bernard* and
14 *Strassman* Actions intended to consolidate their actions and file a consolidated complaint after an
15 amended complaint is filed in the *Schlatre* Action;

16 WHEREAS on June 13 2022, the Court in the consolidated *Bernard* and *Strassman*
17 Actions granted Plaintiffs leave to file a consolidated complaint in the Actions 30 days after an
18 amended complaint is filed in the *Schlatre* Action, and the Court also set a schedule for filing and
19 briefing motions to dismiss in the consolidated *Bernard* and *Strassman* Actions (*Bernard* ECF No.
20 47);

21 WHEREAS on June 27, 2022, the Court in the *Strassman* Action, No. 2:22-cv-
22 00724-RFB-NJK, entered an order requiring parties to file a joint proposed discovery plan in the
23 *Strassman* Action pursuant to Local Rule 26-1(a) no later than July 5, 2022 (*Strassman* ECF No.
24 32);

25 WHEREAS the parties have discussed scheduling in light of the Court's June 27,
26 2022 Order and coordination of the related *Bernard*, *Strassman*, and *Schlatre* Actions, and the
27 parties have agreed that any discovery in the *Strassman* Action should await the filing of
28 consolidated complaints in and resolution of motions to dismiss the *Bernard*, *Strassman*, and

1 *Schlatre* Actions and then should be coordinated;

2 WHEREAS this is the parties' first request for relief with respect to the Court's
3 June 27, 2022 Order;

4 WHEREAS this Stipulation is made in good faith, with good cause, and not for
5 purposes of unduly delaying discovery or trial;

6 IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned
7 counsel for the parties, subject to the approval of the Court, that the deadline for the filing of a
8 stipulated discovery plan pursuant to Local Rule 26-1(A) is extended until 30 days following
9 rulings resolving motions to dismiss in the *Bernard*, *Strassman*, and *Schlatre* actions.

10
11 ///

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Dated this 30th day of June, 2022.

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By: /s/ Matthew L. Sharp

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Attorneys for Plaintiff Roy Strassman

Dated this 30th day of June, 2022.

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By: /s/ M. Magali Mercera

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Merrick D. Okamoto, Said Ouissal, Simeon
Salzman, and Fred Thiel, and Nominal
Defendant Marathon Digital Holdings, Inc.

ORDER

Having considered the Parties' Stipulation and finding good cause appearing,

IT IS SO ORDERED.

UNITED STATES MAGISTRATE JUDGE

DATED: _____

Case No.: 2:22-cv-00305-RFB-NJK